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C O N F I D E N T I A L DAR ES SALAAM 000676

SIPDIS

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E.O. 12958: DECL: 10/15/2014  
TAGS: [MARR](#) [MOPS](#) [MP](#) [PBTS](#) [PHSA](#) [PGOV](#) [TZ](#)  
SUBJECT: PIRACY PROSECUTION IN TANZANIA A DISTANT PROSPECT

REF: STATE 100603

Classified By: Polchief Carl B. Fox for reasons 1.4 (b/d)

11. (SBU) Summary and Action Request: Although MFA is cautiously positive about eventually accepting captured pirates for prosecution, the EU's experience in frustration with the GOT over the issue suggests progress towards legislative changes and a memorandum of understanding will be slow at best. We request the draft MOU to share with the GOT, as well as guidance on cooperating with the EU to press the GOT on legal changes to allow prosecution of pirates in cases without a Tanzanian nexus. End summary and action request.

12. (C) Polchief delivered ref demarche to MFA Americas and Europe Director Amb. Radhia Msuya on October 9. Msuya acknowledged the impact of Somali piracy on the Tanzanian economy and agreed that Tanzania had an obligation to cooperate with the international community against piracy. However, she said the GOT had several concerns about agreeing to accept pirates for prosecution, in particular Tanzania's overcrowded jails, overburdened judges and limited court facilities. She agreed to review a draft MOU and encouraged outreach to other interested ministries, in particular Justice, Home Affairs and Defense. Msuya advised, "Don't let the other ministries tell you it's MFA" that's an obstacle. She proposed that an interministerial team travel to Kenya to observe arrangements for piracy prosecutions, in particular the degree of international assistance Kenya was receiving to support prosecutions. (Comment: Implicit in her proposal was the idea that a source other than the GOT would pay for the study tour.)

13. (C) On October 16, Swedish Poloff Andreas Ershammar reviewed with Polchief the EU's fruitless efforts over ten months to move the GOT on piracy prosecutions. A letter from EU High Representative Solana to FM Membe in December 2008 led to a March meeting with EU experts and an array of GOT ministries, which demonstrated that the GOT had no coordination on the issue. The EU subsequently discussed piracy prosecutions with several ministers individually; in June Defense Minister Mwinyi told the Swedish Ambassador that questions to MFA had gone unanswered for months. In July, Membe finally responded formally to Solana, to the effect that the GOT was working on the issue but in the meantime an international court might be a better option; the EU considers the response irrelevant given the impediments to establishing an international mechanism. The EU plans to raise the issue again in the context of a planned November visit by a senior officer from EUNAVFOR (the EU's anti-piracy operation).

¶4. (C) Ershammar commented that one problem with the initial approach to Tanzania on piracy was the inclusion of requests to address the possibility of EU naval pursuit of pirates into Tanzanian waters and to establish a Status of Forces agreement. He said Brussels had subsequently concluded the SOFA was asking too much of the GOT; for the last several months the EU has focused solely on the transfer of pirates for prosecution. Ershammar welcomed U.S. interest in seeing Tanzania prosecute pirates and offered to explore EU willingness to jointly demarche the GOT to make the necessary legal changes to enable prosecution of piracy cases without a Tanzanian nexus.

ANDRE